

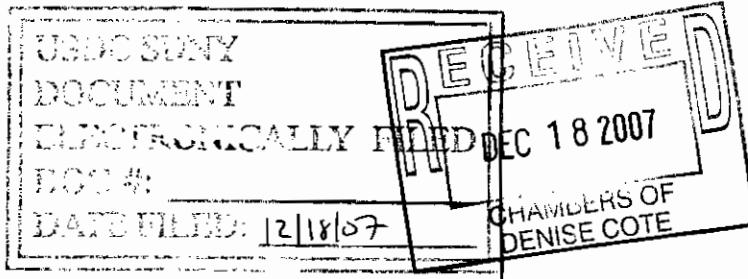
## KAUFMAN &amp; KAHN, LLP

## MEMO ENDORSED

December 17, 2007

BY HAND DELIVERY

Hon. Denise L. Cote  
 United States District Court, SDNY  
 500 Pearl Street, Room 1040  
 New York, NY 10007



Re: DB Structured Products, Inc. v. Lender Ltd.  
 (Case No. 07 CV 4119 (DLC))

To the Honorable Judge Cote:

We represent defendant Lender Ltd. in the above case. Although we timely provided Lender's Rule 26(b) Disclosures and responses to the disclosure demands of plaintiff DB Structured Products, Inc. ("DBSP"). DBSP has failed to provide any of the documents set forth in its Rule 26(b) Disclosure or respond to Lender's disclosure demands.

We served plaintiff's counsel with Lender Ltd.'s First Requests to DBSP for Production of Documents on or about October 9, 2007. Plaintiff's failure to respond has minimized any possibility of meaningful settlement discussions to be mediated by Magistrate Judge Fox. Our mediation has now been adjourned twice; we are awaiting chambers' confirmation that we will meet on January 29, 2008. Meanwhile, the discovery deadline, set forth in your Order dated August 10, 2007, is presently scheduled for February 1, 2008.

I understand from speaking with attorneys for defendants in some of the other consolidated cases that DBSP has not provided disclosure responses to any of them, either, including First Capital.

We respectfully request that Your Honor compel plaintiff to respond to outstanding discovery requests, or that you schedule a pre-motion conference for a motion to compel, and that in the interim the events in the Scheduling Order be adjourned accordingly.

*The parties shall meet and  
 confer to resolve this dispute.  
 Any unresolved issue shall  
 be addressed at a 11<sup>00</sup> am  
 cc. (by email): 12/20/07 conference call.  
 John Doherty, Esq. – counsel to DBSP  
 Peter Fazio, Esq. – counsel to First Capital  
 Mr. Jim Wickham – Lender Ltd.*

Respectfully submitted,

*Mark S. Kaufman*  
 Mark S. Kaufman

*John Doherty  
 shall place the  
 call to the court.*

*Denise Cote  
 December 18, 2007*